

96TH CONGRESS
1ST SESSION

H. R. 230

To amend chapter 171 of title 28, United States Code, to alter procedures with respect to certain malpractice suits against Federal medical personnel, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 15, 1979

Mr. DANIELSON introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend chapter 171 of title 28, United States Code, to alter procedures with respect to certain malpractice suits against Federal medical personnel, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That (a) subsection (b) of section 2679 of title 28, United **FTCA**
4 States Code, is amended to read as follows:

5 “(b) The remedy against the United States provided by
6 sections 1346(b) and 2672 of this title—

7 “(1) for injury or loss of property or personal
8 injury or death, resulting from the operation by any

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1 employee of the Government of any motor vehicle
2 while acting within the scope of his office or employ-
3 ment, or

4 “(2) for personal injury, including death, caused
5 by the negligent or wrongful act or omission of any
6 physician, dentist, nurse, pharmacist, or paramedical or
7 other supporting personnel (including medical and
8 dental technicians, nursing assistants, and therapists) of
9 the Government in the performance of medical, dental,
10 or related health care functions (including clinical stud-
11 ies and investigations) while acting within the scope of
12 his office or employment,

13 shall hereafter be exclusive of any other civil action or pro-
14 ceeding by reason of the same subject matter against the
15 person (or the estate of such person) whose act or omission
16 gave rise to the action or proceeding.”.

17 (b) Subsection (c) of such section 2679 is amended by
18 striking out “any employee” and inserting in lieu thereof
19 “any person referred to in subsection (b)”.

20 (c) Subsection (d) of such section 2679 is amended—

21 (1) by inserting “(1)” immediately after “(d)”;

22 (2) by striking out “the defendant employee” and
23 inserting in lieu thereof “any person referred to in sub-
24 section (b)”;

1 (3) by adding at the end thereof the following new
2 paragraph:

3 “(2) Notwithstanding section 2401(b) of this title, if a
4 civil action or proceeding arising out of an act or omission
5 described in subsection (b), filed in a State court within two
6 years after such claim accrues, is removed to a district court
7 under paragraph (1) of this subsection and is therein dis-
8 missed because the plaintiff in such action or proceeding did
9 not file an administrative claim with respect to the injury,
10 loss of property, personal injury, or death resulting from such
11 act or omission as required by section 2675 of this title, the
12 plaintiff in such action or proceeding shall have thirty days
13 from the date of such dismissal or two years from the date
14 the claim arose, whichever is later, in which to file such ad-
15 ministrative claim.”.

16 (d) Such section 2679 is further amended by adding at
17 the end thereof the following new subsection:

18 “(f) For purposes of this section, the provisions of sec-
19 tion 2680(h) of this title shall not apply to any cause of action
20 arising out of an act or omission described in paragraph (2) of
21 subsection (b).”.

22 SEC. 2. The following provisions of law are hereby re-
23 pealed:

24 (1) subsections (a) through (e) of section 1089 of
25 title 10, United States Code;

- 1 (2) section 4116 of title 38 of such Code;
- 2 (3) subsections (a) through (e) of section 224 of
- 3 the Public Health Service Act (42 U.S.C. 233); and
- 4 (4) subsections (a) through (e) of section 307 of
- 5 the National Aeronautics and Space Act of 1958 (42
- 6 U.S.C. 2458a).
- 7 SEC. 3. The amendments made by the first section of
- 8 this Act and the repeals made by section 2 of this Act shall
- 9 become effective on the date of its enactment and shall apply
- 10 only to those claims accruing on or after such date.

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